PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:	)	
	)	Group Art Unit: 2614
Jerding, et al.	)	
	)	Examiner: Beliveau, Scott B.
Serial No.: 09/693,288	)	
	)	Confirmation No. 8077
Filed: October 20, 2000	)	
	)	Docket No.:60374.0004USI8/CPOL 967906
For: Media-on-Demand Rental Duration Management System	)	
	)	

RESPONSE TO NON-FINAL OFFICE ACTION

Mail Stop - Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

The non-final Office Action mailed June 21, 2010 (Paper No./Date 20100325) has been carefully considered. In response thereto, please consider the following remarks.

AUTHORIZATION TO DEBIT ACCOUNT

It is not believed that extensions of time or fees for net addition of claims are required, beyond those which may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefore (including fees for net addition of claims) are hereby authorized to be charged to deposit account no. 13-2725.

STATUS OF THE CLAIMS

The following is a copy of Applicants' claims as currently pending:

83. (Previously presented) A method for providing a media service to a user via an interactive media services client coupled to a programmable media services server device, the method comprising:

receiving, by the interactive media services client, a movie identification identifying an on-demand movie without a scheduled broadcast time;

assigning an access duration having a first value to the movie, responsive to receiving the movie identification, the access duration associated with the interactive media services client;

receiving, by the interactive media services client during the access duration, at least a portion of the on-demand movie from a the server located remotely from the interactive media services client;

receiving, by the interactive media services client during the access duration, a first user input enabling the user to extend the access duration from the first value to a second value, based upon a third value specified by the user; and

enabling, by the interactive media services client, the user to access the on-demand movie during the extended access duration, responsive to receiving the first user input.

84. (Previously presented) The method of claim 83, further comprising the step of:

providing the user with pricing information related to the extended access duration.

85. (Previously presented) The method of claim 83, further comprising:

providing, by the interactive media services client, the user with a selectable option, the selectable option being configured to enable the user to extend the access duration from the first value to the second value; and

receiving by the interactive media services client a user input corresponding to the selectable option.

86. (Previously presented) The method of claim 83, further comprising:

providing, by the interactive media services client, the user with a selectable option during the first access duration, the selectable option being configured to enable the user to extend the access duration from the first value to the second value; and

receiving by the interactive media services client the first user input corresponding to the selectable option.

87. (Previously presented) The method of claim 83, further comprising:

providing, by the interactive media services client, the user with a plurality of selectable options, each of the selectable options being configured to enable the user to extend the access duration from the first value according to the corresponding value of a selected option from the plurality of options, the plurality of selectable options including one corresponding to the third value; and

receiving by the interactive media services client the first user input corresponding to the one of the selectable options corresponding to the third value.

88. (Previously presented) The method of claim 83, further comprising:

providing, by the interactive media services client, the user with a plurality of selectable options during the first access duration, each of the selectable options being configured to enable the user to extend the access duration from the first value to the second value; and

receiving by the interactive media services client the first user input corresponding to the one of the selectable options.

89. (Previously presented) The method of claim 88, further comprising:

prior to the step of receiving the first user input corresponding to one of the selectable options, providing the user with information indicating an amount of playing time corresponding to a remainder of the on-demand movie, the remainder being calculated from a current interruption point in the on-demand movie video presentation.

90. (Previously presented) The method of claim 88, further comprising:

providing the user with information identifying a plurality of prices, wherein each of the plurality of prices corresponds to a respective one of the plurality of selectable options.

91. (Previously presented) The method of claim 83, further comprising:

charging the user a first price in connection with the access duration; and

charging the user a second price in connection with the extended access duration, wherein the first price is different from the second price.

92. (Previously presented) The method of claim 83, further comprising the step of:

prior to the step of receiving the first user input, providing the user with information indicating that there is insufficient time remaining in the access duration to enable the user to view a remainder of the on-demand movie.

93. (Previously presented) The method of claim 83, further comprising:

prior to the step of receiving the first user input, providing the user with information indicating an amount of time remaining in the access duration.

94. (Previously presented) The method of claim 83, further comprising:

outputting, by the interactive media services client, during the access duration said at least a portion of the movie to a television coupled to the interactive media services client;

interrupting, by the interactive media services client, the output of the on-demand movie during the access duration, responsive to a second user input, wherein the interruption occurs at a current location;

resuming the output of the on-demand movie at the current location, by the interactive media services client , during the access duration, responsive to a third user input; and

receiving, by the interactive media services client, during a period between interrupt and the resume, the first user input enabling the user to extend the access duration from the first value to the second.

95. (Previously presented) The method of claim 83, further comprising:

during the extended access duration:

outputting, by the interactive media services client, at least a second portion of the on-demand movie to a television coupled to the interactive media services client.

96. (Previously presented) A television set-top terminal (STT) configured to provide video content via a television, the STT comprising:

at least one memory having stored thereon program code; and

at least one processor that is programmed by at least the program code to enable the STT to:

receive a movie identification identifying an on-demand movie and an access duration having a first value, the access duration associated with the interactive media services client, the on-demand movie being without a scheduled broadcast time;

receive, during the access duration, at least a portion of the on-demand movie from a server located remotely from the STT;

receive, during the access duration, a first user input enabling the user to extend the access duration from the first value to a second value, based upon a third value specified by the user; and

enable the user to access the movie during the extended access duration, responsive to receiving the first user input.

97. (Previously presented) The STT of claim 96, wherein the at least one processor is further programmed to enable the STT to:

provide the user with pricing information related to the extended access duration.

98. (Previously presented) The STT of claim 96, wherein the at least one processor is further programmed to enable the STT to:

provide the user with a selectable option, the selectable option being configured to enable the user to extend the access duration from the first value to the second value; and

receive a first user input corresponding to the selectable option.

99. (Previously presented) The STT of claim 96, wherein the at least one processor is further programmed to enable the STT to:

provide the user with a selectable option during the first access duration, the selectable option being configured to enable the user to extend the access duration from the first value to the second value; and

receive the first user input corresponding to the selectable option.

100. (Previously presented) The STT of claim 96, wherein the at least one processor is further programmed to enable the STT to:

provide the user with a plurality of selectable options, each of the selectable options being configured to enable the user to extend the access duration from the first value according to the corresponding value of a selected option from the plurality of options, the plurality of selectable options including one corresponding to the third value; and

receive the first user input corresponding to the one of the selectable options corresponding to the third value.

101. (Previously presented) The STT of claim 96, wherein the at least one processor is further programmed to enable the STT to:

provide the user with a plurality of selectable options during the first access duration, each of the selectable options being configured to enable the user to extend the access duration from the first value to the second value; and

receive the first user input corresponding to the one of the selectable options.

102. (Previously presented) The STT of claim 101, wherein the at least one processor is further programmed to enable the STT to:

prior to the receiving the first user input corresponding to one of the selectable options, provide the user with information indicating an amount of playing time corresponding to a remainder of the on-demand movie, the remainder being calculated from a current interruption point in the on-demand movie video presentation.

103. (Previously presented) The STT of claim 96, wherein the at least one processor is further programmed to enable the STT to:

provide the user with information identifying a plurality of prices, wherein each of the plurality of prices corresponds to a respective one of the plurality of selectable options.

104. (Previously presented) The STT of claim 96, wherein the at least one processor is further programmed to enable the STT to:

prior to receiving the first user input, provide the user with information indicating that there is insufficient time remaining in the access duration to enable the user to view a remainder of the on-demand movie.

105. (Previously presented) The STT of claim 96, wherein the at least one processor is further programmed to enable the STT to:

prior to receiving the first user input, provide the user with information indicating an amount of time remaining in the access duration.

106. (Previously presented) The STT of claim 96, wherein the at least one processor is further programmed to enable the STT to:

output, during the access duration, the at least a portion of the on-demand movie to the television;

interrupt the output of the on-demand movie, during the access duration, responsive to a second user input, wherein the interruption occurs at a current location;

resume the output of the on-demand movie at the current location, during the access duration, responsive to a third user input; and

receive, during a period between interrupt and the resume, the first user input enabling the user to extend the access duration from the first value to the second.

107. (Previously presented) The STT of claim 96, wherein the at least one processor is further programmed to enable the STT to:

output, during the extended access duration said at least a portion of the movie to a television coupled to the interactive media services client.

108. (Previously presented) The method of claim 83, further comprising the step of:

granting the interactive media services client access to the movie until the access duration has expired.

109. (Previously presented) The method of claim 83, further comprising the step of:

granting the interactive media services client access to the movie during the whole of the access duration.

110. (Previously presented) The STT of claim 96, wherein the at least one processor is further programmed to enable the STT to:

grant the interactive media services client access to the movie until the access duration has expired.

111. (Previously presented) The STT of claim 96, wherein the at least one processor is further programmed to enable the STT to:

grant the interactive media services client access to the movie during the whole of the access duration.

REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed June 21, 2010 (Paper No./Date 20100325). Through this response, no claims have been amended and no new matter has been added. Reconsideration and allowance of the application and pending claims 83-111 are respectfully requested.

I. Priority Benefit

Applicants do not address in this response the validity of any allegations made in the non-final Office Action (pages 2-4) regarding the priority of the instant application. Therefore, Applicants should not be presumed to agree with any statements made in the non-final Office Action regarding the priority of the instant application unless otherwise specifically indicated by Applicants.

II. Claim Rejections - 35 U.S.C. § 103(a)

A. Statement of the Rejection

1. Claims 83-88, 90, 93-101, 103, and 105-111 have been rejected under 35 U.S.C. 103(a) as allegedly unpatentable over U.S. Patent No. 6,166,730 to *Goode et al.* ("*Goode*"), in view of U.S. Patent No. 6,385,614 to *Vellandi*, and further in view of U.S. Patent No. 5,715,169 to *Noguchi*.

2. Claims 89, 92, 102, and 104 have been rejected under 35 U.S.C. 103(a) as allegedly unpatentable *Goode*, in view of *Vellandi*, in view of *Noguchi*, and further in view of U.S. Patent No. 6,628,302 to *White et al.* ("*White*").

3. Claim 91 has been rejected under 35 U.S.C. 103(a) as allegedly unpatentable *Goode*, in view of *Vellandi*, in view of *Noguchi*, and further in view of U.S. Patent No. 7,143,430 to *Fingerman et al.* ("*Fingerman*").

B. Discussion of the Rejection

The U.S. Patent and Trademark Office ("USPTO") has the burden under section 103 to establish a *prima facie* case of obviousness according to the factual inquiries expressed in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). The four factual inquires, also expressed in MPEP 2100-116, are as follows:

(A) Determining the scope and contents of the prior art;

(B) Ascertaining the differences between the prior art and the claims in issue;

(C) Resolving the level of ordinary skill in the pertinent art; and

(D) Evaluating evidence of secondary considerations.

Applicants respectfully submit that a *prima facie* case of obviousness is not established using the art of record.

1. Claims 83-88, 90, 93-101, 103, and 105-111 - 35 U.S.C. 103(a) – *Goode* in view of *Vellandi,* and further in view of *Noguchi*

a. Independent claim 83 and dependent claims 84-88, 90, 93-95, 108-109

Applicants respectfully submit that claim 83 is patentable over *Goode* in view of *Vellandi,* and further in view of *Noguchi*, and hence respectfully submit that a *prima facie* case of obviousness has not been established. Applicants initially note that assuming *arguendo* the "movie identification" is construed on page 5 of the non-final Office Action as merely the presented title, such a construction causes *Goode* to fail to disclose, teach, or suggest at least "assigning…***response to receiving the movie identification***." In other words, *Goode* does not disclose, teach, or suggest that merely presenting a title on a display causes an assignment of an access duration to a movie.

Further, though acknowledging certain deficiencies in the teachings of *Goode* (see, e.g., page 6 of the non-final Office Action), the non-final Office Action (pages 6-7) alleges in part the following with regard to *Vellandi* (emphasis added):

> In an analogous art, Vellandi teaches receiving by the client during the access duration, a first user input enabling the user to extend the access duration from the first value (30 minutes) to a second value (further period of exclusive access), based upon a third value…Therefore, it would have been obvious to a person of ordinary skill in the art to modify Goode's system to include receiving by the client during the access duration…for the advantage of providing the user with extended viewing time for content, allowing them to view content multiple times as desired and/or complete viewing at their own leisure, without feeling rushed, also efficiently maintaining available bandwidth of the system granting access only to those that require continued access to the content, providing users with a more flexible and convenient entertainment experience.

Applicants respectfully disagree that it would be obvious to modify *Goode*'s system with the teachings of *Vellandi*. For instance, *Vellandi*'s system requires continual processing to determine whether termination of exclusive access is warranted or not, whereas *Goode*'s system affords a user the opportunity to select extended viewing terms at the outset of the purchase and forget about it (i.e., no longer dedicating any processing resources to that determination). For instance, col. 6, line 44-49 of *Vellandi* is compared to col. 14, line 66 – col. 15, line 2 of *Goode* below:

> [*Vellandi*] The subsequent requests, which each include the cookie assigned to the subscriber computer 14, are analyzed by the server 12 for determining whether or not to terminate the subscriber's exclusive access to the book and for determining whether or not to extend the period of the subscriber's exclusive access.
>
> [*Goode*] The purchase of a title includes the selection of a title, any explicit terms of use (i.e., extended viewing time or use time) and any other purchase terms. The method 700 then proceeds to task 710.

It is not obvious to take on a task of consuming more processing cycles to achieve the same result, namely, extension of viewing time.

As another example of why the modification of *Goode* by the teachings of *Vellandi* is not obvious is that what works with *Vellandi* does not necessarily work with *Goode* – i.e., the results are not predictable. For instance, *Vellandi* teaches (col. 3, lines 4-18, *Vellandi*) in part the following with regard to extended access (emphasis added):

> This embodiment of the invention only renews or extends a user's exclusive access to a shared book if a "cookie" and associated request relating to the book are received during a portion of the predetermined period of time that commences after the predetermined period of time commences. To continue with the prior example, if a "cookie" and associated request relating to the book are seen in the last 15 minutes of the 30 minute period, the period of exclusive access is extended for a further period of time. If, on the other hand, "cookie" and associated request relating to the book are not seen in the last 15 minutes of the 30 minute period, the book is released. This release occurs even if a "cookie" and associated request relating to the book are seen in the first 15 minutes of the 30 minute period.

In other words, a request for access along with the cookie appears to be the trigger for an auto-extension. Imagine this system used in an on-demand system such as *Goode*, where every time the user implements VCR-type control, an extension of time is granted. By the time the user has completed the on demand movie, a $4 movie might become a $200 movie, much to the chagrin of the user. Or perhaps there is no charge, much to the chagrin of the provider.

Further, the disparity in operation also prohibits any predictability in the result. For instance, col. 6, lines 1-10 of *Vellandi* provides as follows (emphasis added):

> FIG. 2A illustrates a library display 24 that is typically seen on the monitor of a subscriber computer 14 after a subscriber obtains access to the server 12. The display 24 includes a personal library portion 26 that shows all of the electronic books that the subscriber can access at any time, i.e. does not share with another subscriber. Also part of the display 24 is a shared library portion 28 that illustrates all of the electronic books that the subscriber shares with other subscribers, i.e. has the right to access but cannot access at the same time as another subscriber is accessing the book.

This concept of unavailability of a given book title during one other's viewing time (e.g., see also, col. 2, lines 55-67 of *Vellandi*) is unlike on demand video. For instance, in an on demand system with VCR-type controls, such as described in *Goode* (e.g., col. 3, lines 1-5), use by one person of a given title does not prevent another from using that title as part of another session, absent perhaps bandwidth constraints. In contrast, it appears that one user's viewing of a book appears to prevent another's viewing of that book. And there is no mention of cost for a renewal. These disparities in systems would hardly constitute the type of teachings one having ordinary skill would readily combine.

Further, addressing the alleged advantages for the combination of *Goode* and *Vellandi*, it is noted that extended viewing time is already provided in *Goode* at the outset, without the added burden of continual processing cycle consumption to determine whether termination of exclusive access is warranted. Likewise, if one is allowed to choose the extension terms at the outset of *Goode*, then it is reasonable to assume that one would do so to accommodate their expected viewing times (i.e., without feeling rushed). Indeed, should a user implementing *Vellandi*'s system in an on demand environment (assuming *arguendo* that is possible) neglect to operate a stream control mechanism in the latter portion of the movie, he or she would reach the end of the movie without a suitable mechanism to extend or renew during the access duration, unlike Applicants' claimed embodiment.

Further, as to the alleged bandwidth benefits in the combined teachings of *Goode* and *Vellandi*, Applicants respectfully disagree. As noted previously, each request much be accompanied by a cookie, adding unnecessary overhead in order to automate the extensions. Further, the auto-extensions taught by *Vellandi* as applied to an on demand movie implementation (assuming *arguendo* that is possible) likely expands the duration when not desired, especially if the cost rises to undesired levels. Indeed, as to granting access only to those requiring continued access, it is noted that

the bandwidth is still used – whether by the user with the original exclusive access or the user who was waiting to access the book, with no apparent benefit in combining these teachings. For at least these reasons, Applicants respectfully submit that claim 83 is not obvious, and respectfully request that the rejection be withdrawn.

Further, the non-final Office Action (page 7) introduces *Noguchi* for allegedly remedying the lack of explicit teachings by *Goode* and *Vellandi* "of an extension value (third value) specified by the user." The non-final Office Action (pages 7-8) offers in part the following as justification for the combination of *Goode* and *Vellandi* and *Noguchi*:

> Therefore, it would have been obvious to a person of ordinary skill in the art to modify the system of Goode and Vellandi to include an extension value specified by the user, as taught by Noguchi, for the advantage of providing more user control to the access extension process, adding more flexibility to the system and not limiting the user to a system specified extension period.

Applicants respectfully disagree. Adding more user control to the system of *Vellandi*, for example, gives rise to the possibility of more abuse in the extension period. For instance, when automated, abuses are mitigated by reducing the length of renewal periods, increasing the number of requests that must be seen to justify subsequent renewals, etc., as described in col. 3, lines 19-40 of *Vellandi*. In the control of a subscriber, what motivation is there to select a shorter extension term than a longer one, especially if there is no cost disincentive to do so? Further, there is nothing to suggest that *Goode* requires some limit to a specified extension period. Accordingly, it is not reasonable to allege that the combination is obvious when the same or worse results can be expected as a possibility. In other words, the investment in time and energy to attempt to re-create the claimed embodiment using this combination of teachings from *Goode*, *Vellandi*, and *Noguchi* is not justified when the same or worse performance is the likely outcome. For at least this separate reason, Applicants respectfully request that the rejection be withdrawn and the claim allowed.

Because independent claim 83 is allowable over *Goode* in view of *Vellandi,* and further in view of *Noguchi*, dependent claims 84-88, 90, 93-95, and 108-109 are allowable as a matter of law for at least the reason that the dependent claims 84-88, 90, 93-95, and 108-109 contain all elements of their respective base claim. See, *e.g.*, *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

b. Independent claim 96 and dependent claims 97-101, 103, 105-107, and 110-111

Applicants respectfully submit that claim 96 is patentable over *Goode* in view of *Vellandi,* and further in view of *Noguchi*, and hence respectfully submit that a *prima facie* case of obviousness has not been established. The rejection to claim 96 (page 8) largely borrows from the rejection to claim 83, and so the rebuttal arguments are presented based on the rejection to claim 83. Though acknowledging certain deficiencies in the teachings of *Goode* (see, e.g., page 6 of the non-final Office Action), the non-final Office Action (pages 6-7) alleges in part the following with regard to *Vellandi* (emphasis added):

> In an analogous art, Vellandi teaches receiving by the client during the access duration, a first user input enabling the user to extend the access duration from the first value (30 minutes) to a second value (further period of exclusive access), based upon a third value…Therefore, it would have been obvious to a person of ordinary skill in the art to modify Goode's system to include receiving by the client during the access duration…for the advantage of providing the user with extended viewing time for content, allowing them to view content multiple times as desired and/or complete viewing at their own leisure, without feeling rushed, also efficiently maintaining available bandwidth of the system granting access only to those that require continued access to the content, providing users with a more flexible and convenient entertainment experience.

Applicants respectfully disagree that it would be obvious to modify *Goode*'s system with the teachings of *Vellandi*. For instance, *Vellandi*'s system requires continual processing to determine whether termination of exclusive access is warranted or not,

whereas *Goode*'s system affords a user the opportunity to select extended viewing terms at the outset of the purchase and forget about it (i.e., no longer dedicating any processing resources to that determination). For instance, col. 6, line 44-49 of *Vellandi* is compared to col. 14, line 66 – col. 15, line 2 of *Goode* below:

> [*Vellandi*] The subsequent requests, which each include the cookie assigned to the subscriber computer 14, are analyzed by the server 12 for determining whether or not to terminate the subscriber's exclusive access to the book and for determining whether or not to extend the period of the subscriber's exclusive access.
>
> [*Goode*] The purchase of a title includes the selection of a title, any explicit terms of use (i.e., extended viewing time or use time) and any other purchase terms. The method 700 then proceeds to task 710.

It is not obvious to take on a task of consuming more processing cycles to achieve the same result, namely, extension of viewing time.

As another example of why the modification of *Goode* by the teachings of *Vellandi* is not obvious is that what works with *Vellandi* does not necessarily work with *Goode* – i.e., the results are not predictable. For instance, *Vellandi* teaches (col. 3, lines 4-18, *Vellandi*) in part the following with regard to extended access (emphasis added):

> This embodiment of the invention only renews or extends a user's exclusive access to a shared book if a "cookie" and associated request relating to the book are received during a portion of the predetermined period of time that commences after the predetermined period of time commences. To continue with the prior example, <u>if a "cookie" and associated request relating to the book are seen in the last 15 minutes of the 30 minute period, the period of exclusive access is extended for a further period of time.</u> If, on the other hand, "cookie" and associated request relating to the book are not seen in the last 15 minutes of the 30 minute period, the book is released. This release occurs even if a "cookie" and associated request relating to the book are seen in the first 15 minutes of the 30 minute period.

In other words, a request for access along with the cookie appears to be the trigger for an auto-extension. Imagine this system used in an on-demand system such as *Goode*, where every time the user implements VCR-type control, an extension of time

is granted. By the time the user has completed the on demand movie, a $4 movie might become a $200 movie, much to the chagrin of the user. Or perhaps there is no charge, much to the chagrin of the provider.

Further, the disparity in operation also prohibits any predictability in the result. For instance, col. 6, lines 1-10 of *Vellandi* provides as follows (emphasis added):

> FIG. 2A illustrates a library display 24 that is typically seen on the monitor of a subscriber computer 14 after a subscriber obtains access to the server 12. The display 24 includes a personal library portion 26 that shows all of the electronic books that the subscriber can access at any time, i.e. does not share with another subscriber. Also part of the display 24 is a shared library portion 28 that illustrates all of the electronic books that the subscriber shares with other subscribers, i.e. has the right to access but cannot access at the same time as another subscriber is accessing the book.

This concept of unavailability of a given book title during one other's viewing time (e.g., see also, col. 2, lines 55-67 of *Vellandi*) is unlike on demand video. For instance, in an on demand system with VCR-type controls, such as described in *Goode* (e.g., col. 3, lines 1-5), use by one person of a given title does not prevent another from using that title as part of another session, absent perhaps bandwidth constraints. In contrast, it appears that one user's viewing of a book appears to prevent another's viewing of that book. And there is no mention of cost for a renewal. These disparities in systems would hardly constitute the type of teachings one having ordinary skill would readily combine.

Further, addressing the alleged advantages for the combination of *Goode* and *Vellandi*, it is noted that extended viewing time is already provided in *Goode* at the outset, without the added burden of continual processing cycle consumption to determine whether termination of exclusive access is warranted. Likewise, if one is allowed to choose the extension terms at the outset of *Goode*, then it is reasonable to assume that one would do so to accommodate their expected viewing times (i.e., without feeling rushed). Indeed, should a user implementing *Vellandi*'s system in an on demand

environment (assuming *arguendo* that is possible) neglect to operate a stream control mechanism in the latter portion of the movie, he or she would reach the end of the movie without a suitable mechanism to extend or renew during the access duration, unlike Applicants' claimed embodiment.

Further, as to the alleged bandwidth benefits in the combined teachings of *Goode* and *Vellandi*, Applicants respectfully disagree. As noted previously, each request much be accompanied by a cookie, adding unnecessary overhead in order to automate the extensions. Further, the auto-extensions taught by *Vellandi* as applied to an on demand movie implementation (assuming *arguendo* that is possible) likely expands the duration when not desired, especially if the cost rises to undesired levels. Indeed, as to granting access only to those requiring continued access, it is noted that the bandwidth is still used – whether by the user with the original exclusive access or the user who was waiting to access the book, with no apparent benefit in combining these teachings. For at least these reasons, Applicants respectfully submit that claim 96 is not obvious, and respectfully request that the rejection be withdrawn.

Further, the non-final Office Action (page 7) introduces *Noguchi* for allegedly remedying the lack of explicit teachings by *Goode* and *Vellandi* "of an extension value (third value) specified by the user." The non-final Office Action (pages 7-8) offers in part the following as justification for the combination of *Goode* and *Vellandi* and *Noguchi*:

> Therefore, it would have been obvious to a person of ordinary skill in the art to modify the system of Goode and Vellandi to include an extension value specified by the user, as taught by Noguchi, for the advantage of providing more user control to the access extension process, adding more flexibility to the system and not limiting the user to a system specified extension period.

Applicants respectfully disagree. Adding more user control to the system of *Vellandi*, for example, gives rise to the possibility of more abuse in the extension period. For instance, when automated, abuses are mitigated by reducing the length of renewal

periods, increasing the number of requests that must be seen to justify subsequent renewals, etc., as described in col. 3, lines 19-40 of *Vellandi*. In the control of a subscriber, what motivation is there to select a shorter extension term than a longer one, especially if there is no cost disincentive to do so? Further, there is nothing to suggest that *Goode* requires some limit to a specified extension period. Accordingly, it is not reasonable to allege that the combination is obvious when the same or worse results can be expected as a possibility. In other words, the investment in time and energy to attempt to re-create the claimed embodiment using this combination of teachings from *Goode*, *Vellandi*, and *Noguchi* is not justified when the same or worse performance is the likely outcome. For at least this separate reason, Applicants respectfully request that the rejection be withdrawn and the claim allowed.

Because independent claim 96 is allowable over *Goode* in view of *Vellandi,* and further in view of *Noguchi*, dependent claims 97-101, 103, 105-107, and 110-111 are allowable as a matter of law.

2. Claims 89, 92, 102, and 104 - 35 U.S.C. 103(a) – *Goode* in view of *Vellandi,* in view of *Noguchi,* and further in view of *White*

As set forth in section 1 above, *Goode* in view of *Vellandi,* and further in view of *Noguchi* fail to establish a *prima facie* case of obviousness as applied to claims 83 and 96. The introduction of *White* fails to remedy those deficiencies, and hence independent claims 83 and 96 are allowable over *Goode* in view of *Vellandi,* and further in view of *Noguchi*, and further in view of *White*. For at least the reasons that claims 83 and 96 are allowable over *Goode* in view of *Vellandi,* and further in view of *Noguchi*, and further in view of *White*, claims 89, 92, 102, and 104 are allowable as a matter of law, and hence Applicants respectfully request that the rejection be withdrawn and the claims allowed.

3. Claim 91 - 35 U.S.C. 103(a) – *Goode* in view of *Vellandi*, in view of *Noguchi*, and further in view of *Fingerman*

As set forth in section 1 above, *Goode* in view of *Vellandi,* and further in view of *Noguchi* fail to establish a *prima facie* case of obviousness as applied to claim 83. The introduction of *Fingerman* fails to remedy those deficiencies, and hence independent claim 83 is allowable over *Goode* in view of *Vellandi,* and further in view of *Noguchi*, and further in view of *Fingerman*. For at least the reasons that claim 83 is allowable over *Goode* in view of *Vellandi,* and further in view of *Noguchi*, and further in view of *Fingerman*, claim 91 is allowable as a matter of law, and hence Applicants respectfully request that the rejection be withdrawn and the claims allowed.

CONCLUSION

Applicants respectfully submit that Applicants' pending claims are in condition for allowance. Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, and similarly interpreted statements, should not be considered well known since the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,

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